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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,139	12/15/2003	Thomas E. Creamer	BOC9-2003-0085 (456)	3696
40987	7590	08/11/2005	EXAMINER	
AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			BRINEY III, WALTER F	
			ART UNIT	PAPER NUMBER
			2646	
DATE MAILED: 08/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/736,139

Applicant(s)

CREAMER ET AL.

Examiner

Walter F. Briney III

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/19/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1, 2, 4, 6, 7, 9, 11, 12, 14, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Rango (US Patent 6,788,705).**

**Claim 1** is limited to a *method of automatically resolving a Digital Subscriber Line failure*. Rango discloses transmitting DSL startup parameters over a voice channel. See Abstract. As disclosed in column 3, lines 5-32, when a pair of high-speed DSL modems fail to establish communications, a pair of voice-band V series modems initiate communication, share DSL modem startup parameters and cause a reset of the DSL modems. As further disclosed in column 3, line 65, through column 4, line 22, the controller (35) within the subscriber side modem (30) initiates startup parameter transmission using the low-speed modem (31) when handshake operations with the central office modem (103 of figure 1) fail. The detection of failed handshaking corresponds to *detecting a failure of the Digital Subscriber Line*. The connection between the subscriber side V series modem and the V series modem at the central office corresponds to *establishing a call over a public switched telephone network with an administrative system for the Digital Subscriber Line*. The transmission of DSL

startup parameters by the V series modem corresponds to *notifying the administrative system for the Digital Subscriber Line of the failure over the established call*. As described in column 3, lines 29-32, the parameters cause an "automatic" restart of the central office's DSL modem. Therefore, Rango anticipates all limitations of the claim.

**Claim 2** is limited to *the method of claim 1*, as covered by Rango. The parameters transmitted by the V series modem triggers a reset of the central office's DSL modem, such that the transmission and receipt of parameters from the subscriber corresponds to *requesting the reset of the Digital Subscriber Line*. Therefore, Rango anticipates all limitations of the claim.

**Claim 4** is limited to *the method of claim 1*, as covered by Rango. The parameters transmitted by the V series modem triggers a reset of the central office's DSL modem. In particular, the receiving central office receives the parameters over the voiceband and must at least forward (with or without processing) the parameters to the DSL modem. The forwarding to an affected DSL modem corresponds to *sending a reset message to a modem within a Digital Subscriber Line operation center*.

Therefore, Rango anticipates all limitations of the claim.

**Claims 6, 7 and 9** recite means which inherently perform the steps of claims 1, 2 and 4, respectively. It is submitted that the means disclosed by Rango and cited in the rejections of claims 1, 2 and 4 similarly correspond to the means of claims 6, 7 and 9. Therefore, Rango anticipates all limitations of the claims.

**Claims 11, 12 and 14** recite steps that are essentially the same as the steps of claims 1, 2 and 4, respectively. It is submitted that the steps disclosed by Rango and

cited in the rejections of claims 1, 2 and 4 similarly corresponds to the steps of claims 11, 12 and 14. Furthermore, Rango discloses a controller (i.e. computer) and ROM (36) that holds all instructions for executing said cited steps. Therefore, Rango anticipates all limitations of the claim.

**Claim 16** is limited to a *Digital Subscriber Line modem*. Rango discloses a transmitting DSL startup parameters over a voice channel. See Abstract. The modem of figure 3 clearly corresponds to the Digital Subscriber Line modem as claimed because it executes the DSL failure detection step (42), the POTS connection (43) and the failure notification (43), where step (42) corresponds to *detecting a failure in a digital subscriber line*, step (43) corresponds to *placing an outgoing call over a public switched telephone network to an administrative system of the Digital Subscriber Line* and a subsequent stage of step (43) corresponds to *notifying the administrative system of the failure*. Therefore, Rango anticipates all limitations of the claim.

**Claim 17** is limited to *the Digital Subscriber Line modem of claim 16*, as covered by Rango. The parameters transmitted by the V series modem triggers a reset of the central office's DSL modem, such that the transmission and receipt of parameters from the subscriber corresponds to *requesting the reset of the Digital Subscriber Line*. Therefore, Rango anticipates all limitations of the claim.

2. **Claims 1, 3, 5, 6, 8, 10, 11, 13, 15 and 16** are rejected under 35 U.S.C. 102(e) as being anticipated by Owens et al. (US Patent Application Publication 2003/0053449).

**Claim 1** is limited to a *method of automatically resolving a Digital Subscriber Line failure*. Owens discloses a system and method for remotely communicating with a

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broadband modem. See Abstract. As illustrated by figures 4A and 4B, any one of a number of DSL startup failures (425) results in a low-speed modem connection between a client and a remote server in an attempt to restore DSL communication by providing failure descriptors over the POTS connection. See paragraphs 81 and 82. The low-speed modem is disclosed as a POTS modem. See paragraph 68 and figure 2, elements 222 and 224. One way in which communication is restored is by providing the client with information to rectify the problem. Another way to restore communication is to have the customer call the ISP customer support line, it is clear that this provides the ability to signal the DSL provider that the communication problem cannot be resolved by the subscriber. See paragraph 84. In any case, the administrative system provides information to *reset the Digital Subscriber Line* so that it is operational. The failure detections (425) correspond to *detecting a failure of the Digital Subscriber Line*. The POTS connection (430) between the client and remote server corresponds to *establishing a call over a public switched telephone network with an administrative system for the Digital Subscriber Line*. The transmit of information (432) corresponds to *notifying the administrative system for the Digital Subscriber Line of the failure over the established call*. Therefore, Owens anticipates all limitations of the claim.

**Claim 3** is limited to *the method of claim 1*, as covered by Owens. As seen in step (436) of figure 4B, the remote server performs automatic number identification (ANI) on the calling party, which corresponds to *the administrative system identifying the Digital Subscriber Line with the failure using caller identification on the received call*. Therefore, Owens anticipates all limitations of the claim.

**Claim 5** is limited to *the method of claim 1*, as covered by Owens. As disclosed in paragraph 84, the remote server indicates that the subscriber needs to contact ISP customer support (i.e. another part of the *administrative system*), which results in the establishment of a call between the administrative system and a subscriber endpoint (e.g. telephone), the call inherently serving to provide information on handling the DSL failure. Therefore, Owens anticipates all limitations of the claim.

**Claims 6, 8 and 10** recite means which inherently perform the steps of claims 1, 3 and 5, respectively. It is submitted that the means disclosed by Owens and cited in the rejections of claims 1, 3 and 5 similarly correspond to the means of claims 6, 8 and 10. Therefore, Owens anticipates all limitations of the claims.

**Claims 11, 13 and 15** recite steps that are essentially the same as the steps of claims 1, 3 and 5, respectively. It is submitted that the steps disclosed by Owens and cited in the rejections of claims 1, 3 and 5 similarly corresponds to the steps of claims 11, 13 and 15. Furthermore, Owens discloses performing said cited steps within computers depicted in figures 2 and 3, which operate from memories (210) and (310), respectively. Therefore, Owens anticipates all limitations of the claim.

**Claim 16** is limited to a *Digital Subscriber Line modem*. Owens discloses a system and method for remotely communicating with a broadband modem. See Abstract. The modem (104) clearly corresponds to the Digital Subscriber Line modem as claimed because it (104) executes the DSL failure detection steps (425), the POTS connection (430) and the failure notification (432), where steps (425) correspond to *detecting a failure in a digital subscriber line*, step (430) corresponds to *placing an*

*outgoing call over a public switched telephone network to an administrative system of the Digital Subscriber Line and step (432) corresponds to notifying the administrative system of the failure.* Therefore, Owens anticipates all limitations of the claim.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F. Briney III whose telephone number is 571-272-7513. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SINH TRAN**  
SUPERVISORY PATENT EXAMINER

WFB  
8/4/05